



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201417026

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JAN 30 2014

Uniform Issue List: 402.00-00

T:EP:RA:T3

Legend:

Taxpayer A	=	*****
Plan B	=	*****
Plan C	=	*****
Trustee D	=	*****
Bank E	=	*****
Amount X	=	*****
IRA Y	=	*****

Dear *****:

This is in response to your request dated March 16, 2013, as supplemented by correspondence dated May 16, 2013, and December 3, 2013, in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A received a lump sum distribution totaling Amount X from Plan B on December 19, 2012. Taxpayer A asserts that her failure to accomplish a rollover of this distribution within the 60-day period prescribed by section 402(c)(3) was due to error on the part of Bank E.

Taxpayer A elected to receive a distribution of her pension benefit under Plan B in a lump sum, with the intent to make a direct rollover into Plan C. The assets of both Plan B and Plan C were held by Trustee D. A check for Amount X was issued from Plan B by Trustee D. The check was made payable to "Trustee D, FBO – Taxpayer A." However, the check was mailed to Taxpayer A.

Taxpayer A was confused by the receipt of a check from Trustee D, made payable to Trustee D. She did not realize that she needed to return the check to Trustee D to complete the rollover into Plan C. On December 21, 2012, Taxpayer A took the check to Bank E, which did not inform her that the check needed to be sent to Trustee D, as the payee on the check. Instead, Bank E allowed the check to be deposited into Taxpayer A's savings account, despite the fact that the check was payable to Trustee D, not to Taxpayer A.

Taxpayer A did not discover that the funds had been incorrectly deposited until March 13, 2013. Bank E, upon reviewing the situation, immediately recognized and apologized for the error. Taxpayer A also immediately contacted Trustee D, who informed her that they could not accept the funds into Plan C, but would accept a rollover into a new IRA account. Taxpayer A immediately established an IRA account with Trustee D, and deposited Amount X into IRA Y on March 15, 2013.

Based on the facts and representations, you request that the Internal Revenue Service waive the 60 day rollover requirement contained in section 402(c)(3) of the Code with respect to the distribution of Amount X from Plan B.

Section 402(c)(1) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution, and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be includible in gross income for the taxable year in which paid. Section 402(c)(3)(A) states that such rollover must be accomplished within 60 days following the day on which the distributee received the property.

Section 402(c)(3)(B) of the Code provides, in relevant part, that the Secretary may waive the 60-day requirement under section 402(c) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 402(c)(3)(B) of the Code.

Section 402(c)(8) of the Code provides that an individual retirement account (IRA) is one type of eligible retirement plan.

Section 402(c)(4) of the Code provides that an eligible rollover distribution shall not include any distribution to the extent such distribution is required under section 401(a)(9).

Section 402(c)(5) of the Code provides that a transfer to an eligible retirement plan that results in any portion of a distribution from a qualified plan being excluded from gross income under section 402(c)(1) shall be treated as a rollover contribution described in section 408(d)(3).

Section 401(a)(31) of the Code provides the rules governing "direct transfers of eligible rollover distributions."

Section 1.401(a)(31)-1 of the Income Tax Regulations, Question and Answer-15, provides, in relevant part, that an eligible rollover distribution that is paid to an eligible retirement plan in a direct rollover is a distribution and rollover, and not a transfer of assets and liabilities.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, (January 27, 2003), provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 402(c)(3) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with her assertion that she intended to accomplish a rollover of Amount X, and that her failure to accomplish a rollover of this distribution within the 60-day period prescribed by section 402(c)(3)(B) was due to error on the part of Bank E.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount X from Plan B. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, were met, the March 15, 2013 contribution of Amount X into IRA Y will be considered a rollover contribution within the meaning of section 402(c)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

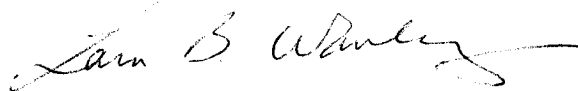
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No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact *****
(ID*****) at (***) ***-****. Please address all correspondence to
SE:T:EP:RA:T3.

Sincerely yours,



Laura B. Warshawsky, Manager,
Employee Plans Technical Group 3

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose